

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Roseanne Tomlinson

DEFENDANTS

Graham Management, LP d/b/a McDonald's, Inc.

(b) County of Residence of First Listed Plaintiff Berks

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Montgomery

(IN U.S. PLAINTIFF CASES ONLY)

NOTE:

IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

SIDNEY L. GOLD, ESQUIRE/ SIDNEY L. GOLD & ASSOC., P.C.
1835 MARKET ST., STE 515, PHILA., PA 19103
TELEPHONE (215) 569-1999 sgold@discrimlaw.net

Attorneys (If Known)

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff

☒ 3 Federal Question
(U.S. Government Not a Party)

☐ 2 U.S. Government Defendant

☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN

(Place an "X" in One Box Only)

☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify)
 ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Title VII

Brief description of cause:

Employment Discrimination

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ 150,000 in excess

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

August 31, 2016

/s/Sidney L. Gold, Esquire

X

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 1111 Swedes Road, Apt. 4, Douglassville, PA 19518

Address of Defendant: 1428 East High Street, Pottstown, PA 19464

Place of Accident, Incident or Transaction: 1428 East High Street, Pottstown, PA 19464
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7,1(a))

Yes ☐ No **X**

Does this case involve multidistrict litigation possibilities?

Yes ☐ No **X**

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No **X**
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No **X**
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No **X**
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No **X**

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. **X Civil Rights**
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify) _____

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION

Sidney L. Gold, Esquire

(Check Appropriate Category)

I, _____, counsel of record do hereby certify:

X Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs.

X Relief other than monetary damages is sought.

DATE: August 31, 2016

/s/Sidney L. Gold, Esquire

21374

Attorney-at-Law

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: August 31, 2016

/s/ Sidney L. Gold, Esquire

21374

Attorney-at-Law

Attorney I.D.#

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

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Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

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Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

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3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☒ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify) _____

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Sidney L. Gold, Esquire, counsel of record do hereby certify:

- X Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- X Relief other than monetary damages is sought.

/s/Sidney L. Gold, Esquire

21374

DATE: August 31, 2016

Attorney-at-Law

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

/s/ Sidney L. Gold, Esquire

21374

DATE: August 31, 2016

Attorney-at-Law

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

ROSEANNE TOMLINSON

CIVIL ACTION

v.

GRAHAM MANAGEMENT, LP d/b/a
McDONALD'S, INC.

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

August 31, 2016

/s/Sidney L. Gold, Esquire

Date**Attorney-at-law****Attorney for Plaintiff**

215.569.1999

215.569.3870

sgold@discrimlaw.net**Telephone****FAX Number****E-Mail Address**

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ROSEANNE TOMLINSON,

Plaintiff,

v.

GRAHAM MANAGEMENT, LP
d/b/a MCDONALD'S, INC.

Defendant.

CIVIL ACTION NO:

JURY TRIAL DEMANDED

COMPLAINT AND JURY DEMAND

I. PRELIMINARY STATEMENT:

1. This is an action for an award of damages, attorney's fees and other relief on behalf of Plaintiff, Roseanne Tomlinson ("Plaintiff Tomlinson"), a former employee of Defendant, Graham Management, LP d/b/a McDonald's, Inc., who was harmed by the Defendant's discriminatory and retaliatory employment practices.

2. This action is brought under Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. §2000(e), et seq., as amended by the Civil Rights Act of 1991, at 42 U.S.C. §1981(a), and the Pennsylvania Human Relations Act ("PHRA"), 43 P.S. §951 et seq.

II. JURISDICTION AND VENUE:

3. The jurisdiction of this Court is invoked, and venue is proper in this district, pursuant to 28 U.S.C. §§1331 and 1391 as Plaintiff Tomlinson's claims are substantively based on Title VII.

4. The supplemental jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1367 to consider Plaintiff Tomlinson's claims arising under the PHRA.

5. All conditions precedent to the institution of this suit have been fulfilled. On June 9, 2016, a Notice of Right to Sue was issued by the United States Equal Employment Opportunity Commission ("EEOC") and this action has been filed within ninety (90) days of receipt of said notice.

6. Plaintiff Tomlinson has satisfied all other jurisdictional prerequisites to the maintenance of this action.

III. PARTIES:

7. Plaintiff, Roseanne Tomlinson ("Plaintiff Tomlinson"), is a fifty-seven (57) year old individual and citizen of the Commonwealth of Pennsylvania, residing therein at 1111 Old Swedes Road, Apt. #4, Douglassville, Pennsylvania 19518.

8. Defendant, Graham Management, LP d/b/a McDonald's, Inc., is a limited partnership duly organized and existing under the laws of the Commonwealth of Pennsylvania, maintaining a place of business located at 1428 East High Street, Pottstown, Pennsylvania 19464.

9. At all times relevant hereto, the Defendant was acting through its agents, servants, and employees, who were acting within the scope of their authority, course of employment, and under the direct control of the Defendant.

10. At all times material herein, the Defendant has been a "person" and "employer" as defined under Title VII and the PHRA, and is subject to the provisions of each said Act.

IV. STATEMENT OF FACTS:

11. Plaintiff Tomlinson was employed by the Defendant from in or about 2006 until on or about September 16, 2014, the date of her unlawful constructive termination.

12. Throughout the course of her employment with the Defendant, Plaintiff Tomlinson held the positions of Manager and Crew Leader and maintained a satisfactory job performance rating in said capacities.

13. Beginning in or about March of 2013, Kenny Johnson (“Johnson”), Maintenance Worker, began subjecting Plaintiff Tomlinson to a hostile work environment through various instances of uninvited and unwanted sexually-offensive remarks and sexually intimidatory conduct.

14. By way of example, in or about March of 2014, Johnson approached Plaintiff Tomlinson at the end of the workday and stared at her in a sexually suggestive manner. Specifically, Johnson directed a lustful gaze at Plaintiff Tomlinson’s buttocks for a noticeable length of time, in a purposeful attempt to have Plaintiff Tomlinson notice said sexually suggestive gaze.

15. Thereafter on said date, Johnson began to follow Plaintiff Tomlinson around the workplace without a business or work-related purpose, further evidence of Johnson’s desire to sexually harass Plaintiff Tomlinson via instances of sexually intimidatory conduct. In sum, Johnson began to stalk Plaintiff Tomlinson.

16. Thereafter, in or about late March of 2014, following a severe snowstorm, Plaintiff Tomlinson was unable to move her automobile from the Defendant’s parking lot, forcing her to sleep in her vehicle on said date. As a result thereof, Johnson abruptly

knocked on Plaintiff Tomlinson's vehicle's window, demanding that she exit her vehicle and sleep at his apartment instead, implying that he desired to engage in sexual relations with Plaintiff Tomlinson at his domicile.

17. In response thereto, on said date, Plaintiff Tomlinson demanded that Johnson cease his sexually intimidatory behavior. Thereafter, Plaintiff Tomlinson exited her vehicle and returned to Defendant's premises, where she sought a cup of coffee. While Plaintiff Tomlinson retrieved said cup of coffee, Johnson stared at her through the window of Defendant's building in a sexually suggestive and intimidatory fashion.

18. Thereafter, in or about mid-April of 2014, while Plaintiff Tomlinson was conversing with Pam Nolan ("Nolan"), Customer, Johnson suddenly appeared next to Plaintiff Tomlinson, hovering over her shoulder in a sexually aggressive manner. Thereafter, when Plaintiff Tomlinson attempted to walk away, Johnson kissed Plaintiff Tomlinson on her cheek and without her consent.

19. In or about May of 2014, Johnson committed his most egregious act of sexual harassment against Plaintiff Tomlinson. Specifically, on said date, Johnson approached Plaintiff Tomlinson while she worked at the cash register. Upon confronting Plaintiff Tomlinson, Johnson stated the following sexually aggressive and lewd comments:

- (i) "it would be good to have sex with me;"
- (ii) "if you had sex with me you would never want another man;"
- (iii) "I don't eat chocolate only vanilla;"
- (iv) "You could not keep up with me in bed."

20. In response thereto, Plaintiff Tomlinson demanded that Johnson cease and desist his sexually aggressive commentary and conduct.

21. In retaliation for opposing Johnson's sexual advances, in or about late May of 2014, while Plaintiff Tomlinson was eating lunch on Defendant's premises with her boyfriend, Joe Salvatico ("Salvatico"), Johnson unexpectedly approached Plaintiff Tomlinson and demanded to "have a word" with her. Thereafter, as a result of Salvatico's presence and Johnson's realization that Plaintiff Tomlinson had a boyfriend, Johnson berated Plaintiff Tomlinson, yelling "What the hell is going on?" In response thereto, Plaintiff Tomlinson reiterated her opposition to Johnson's previous sexually aggressive conduct, informing him that "there was nothing ever between us." Immediately thereafter, as a result of Plaintiff Tomlinson's rejection of his sexual advances, Johnson sped away in his vehicle.

22. As a result thereof, Plaintiff Tomlinson registered a formal complaint of sexual harassment and retaliation with Steve Nagle ("Nagle"), General Manager. Notwithstanding Plaintiff Tomlinson's protestations, Nagle failed to take any corrective action to cause Johnson's sexual harassment and retaliatory conduct to cease.

23. Additionally, Plaintiff Tomlinson telephoned Marcia Graham ("M. Graham"), Owner, in an attempt to register formal complaints of sexual harassment against Johnson. Curiously, however, M. Graham failed to return Plaintiff Tomlinson's telephone calls.

24. On or about August 4, 2014, M. Graham arrived on Defendant's premises to conduct Plaintiff Tomlinson's performance evaluation. During said evaluation,

Plaintiff Tomlinson was finally able to register a formal complaint of sexual harassment and retaliation with M. Graham. In response thereto, M. Graham stated, “Do not call the police, call me if this happens again!” Moreover, M. Graham undertook no remedial action to cause Johnson’s sexually aggressive conduct to cease.

25. As proof thereof, on or about August 7, 2014, Johnson approached Plaintiff Tomlinson while she worked at the cash register and shouted -- “Hey! You take my order!” – in a frighteningly intimidatory and retaliatory manner.

26. In response thereto, Plaintiff Tomlinson began to weep uncontrollably out of fear of Johnson. Thereafter, Plaintiff Tomlinson registered a third formal complaint of retaliation with Tom LNU (“Tom LNU”), Manager, who informed M. Graham and Bruce Graham (“B. Graham”), Co-owner, of Johnson’s actions against Plaintiff Tomlinson.

27. Thereafter on said date, M. and B. Graham met with Plaintiff Tomlinson to discuss the aforesaid incident with Johnson. In response to Plaintiff Tomlinson’s reiteration of Johnson’s sexually aggressive and retaliatory conduct, M. Graham instructed Plaintiff Tomlinson to “not say anything to anybody about this,” thereby once again failing to undertake any remedial action to cause Johnson’s unlawful conduct to cease.

28. Thus, the Defendant has displayed an ongoing pattern of apathy and disinterest in preventing and correcting workplace sexual harassment.

29. As a result of the discriminatory and retaliatory treatment and Defendant's failure to take corrective action, the Defendant purposely impeded Plaintiff Tomlinson's ability to perform her job duties and caused Plaintiff Tomlinson to suffer from severe emotional distress.

30. Specifically, in or about mid-August of 2014, Plaintiff Tomlinson began to suffer symptoms of depression and post-traumatic stress disorder following Defendant's failure to undertake remedial action with respect to Johnson, necessitating her commencement of a medical leave of absence from work.

31. On or about September 16, 2014, as a result of the intolerable working conditions caused by Johnson, coupled with Defendant's persistent failure to undertake any remedial action in response thereto, Plaintiff Tomlinson's employment was unlawfully constructively terminated.

32. By way of additional information, as further evidence of Johnson's sexually aggressive conduct and Defendant's failure to take corrective action in response thereto, Johnson likewise sexually harassed Rosemarie Brunner ("Brunner"), Cashier. Specifically, in or about April of 2014, Plaintiff Tomlinson witnessed Johnson stalk Brunner in an intimidatory and sexually aggressive manner. Further, on one such occasion, Johnson stated to Brunner, "I want to eat your pussy off a platter." Similar to Plaintiff Tomlinson, Brunner registered a formal complaint with Tom LNU. Upon information and belief, the Defendant likewise failed to undertake any remedial action to cause Johnson's sexual harassment towards Brunner to cease.

COUNT I

(Title VII - Hostile Work Environment Sexual Harassment and Retaliation)
Plaintiff Tomlinson v. the Defendant

33. Plaintiff Tomlinson incorporates by reference paragraphs 1 through 32 of her Complaint as though fully set forth at length herein.

34. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Tomlinson to hostile work environment sexual harassment and retaliation, constituted violations of Title VII.

35. As a direct result of the aforesaid unlawful discriminatory and retaliatory employment practices engaged in by the Defendant in violation of Title VII, Plaintiff Tomlinson sustained permanent and irreparable harm, resulting in the loss of her employment, which caused her to sustain a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay and interest due thereon.

36. As a further direct result of the aforesaid unlawful discriminatory and retaliatory employment practices engaged in by the Defendant in violation of Title VII, Plaintiff Tomlinson suffered severe emotional distress, embarrassment, humiliation, and loss of self-esteem.

COUNT II

(PHRA - Hostile Work Environment Sexual Harassment and Retaliation)
Plaintiff Tomlinson v. the Defendant

37. Plaintiff Tomlinson incorporates by reference paragraphs 1 through 36 of her Complaint as though fully set forth at length herein.

38. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Tomlinson to hostile work environment sexual harassment and retaliation, constituted violations of the PHRA.

39. As a direct result of the aforesaid unlawful discriminatory and retaliatory employment practices engaged in by the Defendant in violation of the PHRA, Plaintiff Tomlinson sustained permanent and irreparable harm, resulting in the loss of her employment, which caused her to sustain a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay and interest due thereon.

40. As a further direct result of the aforesaid unlawful discriminatory and retaliatory employment practices engaged in by the Defendant in violation of the PHRA, Plaintiff Tomlinson suffered severe emotional distress, embarrassment, humiliation, and loss of self-esteem.

PRAYER FOR RELIEF

41. Plaintiff Tomlinson incorporates by reference paragraphs 1 through 40 of her Complaint as though fully set forth at length herein.

WHEREFORE, Plaintiff Tomlinson requests that this Court enter judgment in her favor and against the Defendant, and Order that:

a. Defendant compensate Plaintiff Tomlinson with a rate of pay and other benefits and emoluments of employment to which she would have been entitled had she not been subjected to unlawful discrimination and retaliation;

- b. Defendant compensate Plaintiff Tomlinson with an award of front pay, if appropriate;
- c. Defendant pay to Plaintiff Tomlinson punitive damages, compensatory damages for future pecuniary losses, pain, suffering, inconvenience, mental anguish, loss of enjoyment of life and other nonpecuniary losses as allowable;
- d. Defendant pay to Plaintiff Tomlinson, pre and post judgment interest, costs of suit and attorney and expert witness fees as allowed by law;
- e. The Court award such other relief as is deemed just and proper.

JURY DEMAND

Plaintiff Tomlinson demands trial by jury.

SIDNEY L. GOLD & ASSOCIATES, P.C.

/s/Sidney L. Gold, Esquire

By:

SIDNEY L. GOLD, ESQUIRE
I.D. NO.: 21374
TRACI M. GREENBERG, ESQUIRE
I.D. NO.: 86396
1835 Market Street, Suite 515
Philadelphia, PA 19103
(215) 569-1999
Attorney for Plaintiff

DATED: August 31, 2016

VERIFICATION

I hereby verify that the statements contained in the attached Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of Title 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.

8-22-16


ROSEANNE TOMLINSON, PLAINTIFF

DATED: